THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.2913, 7152 and 12574 of 2005

Dated:08.03.2007

Between:

Nirudyogula Samkshema Sangam,
rep. by its President, Madhurawada, Visakhapatnam and others.
…PETITIONERS

and

The District Collector, Visakhapatnam, and others.
…RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION Nos.2913, 7152 and 12574 of 2005

COMMON ORDER:

The grievance of the petitioners in these writ petitions is the same and the writ petitions came to be filed in the background, which is similar to all. Therefore, it is expedient to dispose three matters by a common order.

W.P.No.2913 of 2005 is filed by Nirudyogula Samkshema Sangam espousing the cause of its members numbering three hundred. W.P.No.7152 of 2005 is filed by Visaka City Riksha Karmika Sangam espousing the cause of its members numbering seven thousand. W.P.No.12574 of 2005 is filed by Srimathi Rama Bai Ambedkar Sanghika Samkshema Sangam espousing the cause of its members numbering

fifty-two. It is the case of the petitioners that as all their members are homeless/without shelter, they have been requesting the revenue authorities for allotment of suitable house sites. Considering their representations, the revenue officials allotted certain extents of land in survey Nos.27, 27/P situated at Mathurawada Village, Chinnagadili Mandal, Visakhapatnam District to some of the members and a layout plan No.41/92 was also got approved by fifth respondent, namely, Visakhapatnam Urban Development Authority (VUDA). Pattas were granted to them, who took possession of the land and constructed

small houses. The petitioners requested the revenue officials to allot house sites to other members also. While their request was pending, second respondent, namely, the Revenue Divisional Officer (RDO), third respondent, namely, the Mandal Revenue Officer (MRO) and fourth respondent, namely, the Panchayat Secretary, Madhurawada Panchayat, acting under the instructions of first respondent, namely, the District Collector, came to the land and started demolishing the houses in February, May and June, 2005. Therefore, the petitioners made complaint to the National Human Rights Commissioner but the same was rejected as not maintainable. Then they made representation to the Andhra Pradesh High Court Legal Services Committee on 13.07.2004 on which remarks were called for. However, no further action was taken. However, the respondents are still trying to interfere with the possession of the land in the hands of the members of the petitioners. Therefore, the petitioners filed these writ petitions claiming writs of Mandamus declaring the action of the respondents in interfering with their members' possession and enjoyment of their houses in land comprised in survey Nos.27 and 27/P as illegal and arbitrary.

During the pendency of these writ petitions, this Court in 2005 passed interim orders directing the respondents not to interfere with the possession of the houses in the hands of the members of the petitioners without following due process of Law. The revenue officials moved miscellaneous petitions for vacating said interim orders. Counter-affidavits are filed by MRO, wherein it is stated that some of members of the petitioners were assigned house sites admeasuring 60 sq. yards in 1999 but they never occupied the land within twelve months as required and kept the land vacant, that the petitioners are trying to grab the Government land in Madhurawada and that land admeasuring Acs.40 in survey No.27 including the land which was assigned was vacant and therefore, it was handed over to the Andhra Pradesh Housing Corporation for construction of group houses under Ragiv Gruha Kalpa Scheme. It is also stated that if any of the members of the petitioners are eligible, their cases also shall be considered under said Scheme for allotment of houses. The allegation that some of the members of the petitioners constructed houses is denied. The allegation that the revenue officials tried to evict the members of the petitioners is also denied contending that when they were never in possession, the question of dispossessing them does

not arise.

Reply-affidavits are filed on behalf of the petitioners traversing the counter averments. It is alleged that as per condition No.2 of the pattas granted, the assignees have to construct thatched/tiled/terraced house within twelve months as per the specification given in the schedule and the revenue officials failed to give the schedule along with the pattas. It is further alleged that there is no condition in the pattas to construct a house or prohibiting the sale of the house site.

The learned counsel for the petitioners submit that having failed to furnish the schedule specifying construction of house along with the house site pattas, it is improper for the respondents to take action against the members of the petitioners on the ground that the houses were not constructed within twelve months. Secondly the learned counsel asserts that some of the members to whom land was assigned constructed houses, which were demolished highhandedly by the respondents and that they are still in possession of the land and without due process of law they cannot be evicted.

The learned Assistant Government Pleader for Revenue (Assignment) submits that the petitioners claim to be espousing the cause of a large number of persons who are in need of house sites as alleged, therefore, these writ petitions filed by the associations are not maintainable. Though ninety-nine persons were granted house site pattas, they did not raise any construction nor occupied the land and therefore, the same was handed over to the Andhra Pradesh Housing Corporation for construction of group houses. The learned Assistant Government Pleader also submits that the members of the petitioners are not in possession of the land. It is an admitted case of both sides that all the members of the petitioners were not assigned house sites but only some of them were assigned house sites. Xerox copies of the photographs showing that some of the assignees constructed houses are enclosed with the writ petitions. In the absence of those assignees joining these writ petitions as the petitioners, it is not possible to correlate whether the structures/houses shown were constructed by the assignees. Be that as it is, now that the land has already been allotted to the Andhra Pradesh Housing Corporation for construction of houses by taking up group housing scheme, if the members of the petitioners are eligible as per the criteria, the respondents shall consider their cases also for allotment of houses, and if any of the member or members of the petitioners are in possession, it is needless

to observe that either the revenue officials or the Panchayat officials or VUDA officials cannot dispossess them without giving notice and without following due process of Law. Be it also noted that if the assignments made to any of the member/members of the petitioners are not cancelled, they can only be cancelled on contravention of the conditions of the pattas after giving notice.

The writ petitions, with the above observations and directions, are accordingly disposed of. No costs.

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(V.V.S.RAO, J)

08th March, 2007
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NOTE:
Dispatch order copy
by 14.03.2007
(By Order)
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